

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Maryann Wong	Team: Team # 2	CCRB Case #: 200817805	<input type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Sunday, 12/07/2008 1:30 AM	Location of Incident: West 4th Street and Sixth Avenue	Precinct: 06	18 Mo. SOL 6/7/2010	EO SOL 6/7/2010	
Date/Time CV Reported Wed, 12/10/2008 3:35 AM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Wed, 12/10/2008 3:35 AM		

Complainant/Victim	Type	Home Address
[REDACTED]	[REDACTED]	[REDACTED]

Witness(es)	Home Address
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]

Subject Officer(s)	Shield	TaxID	Command
1. POM Jonathan Hom	09652	940269	006 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Omar Smith	30794	923194	006 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Jonathan Hom	Discourtesy: Police Officer Jonathan Hom spoke obscenely to § 87(2)(b) [REDACTED]	[REDACTED]

Synopsis

On December 10, 2008, § 87(2)(b) filed a complaint with the CCRB via phone.

On December 7, 2008, at approximately 1:30 AM, § 87(2)(b) got into a livery cab on the corner of Sixth Avenue and West 4th Street in Manhattan. Officer Jonathan Hom and Officer Omar Smith pulled over the cab driver. When § 87(2)(b) interrupted the interaction between the officers and the cab driver, Officer Jonathan Hom called § 87(2)(b) a “fucking asshole” (Allegation A).

§ 87(2)(g)

Summary of Complaint

§ 87(2)(b)

On December 10, 2008, § 87(2)(b) filed a complaint with the CCRB via phone. On December 19, 2008, § 87(2)(b) was interviewed at the CCRB. § 87(2)(g)

§ 87(2)(b) is 5'7" tall, 180 lbs, age § 87(2)(b) and bald.

On December 7, 2008, at approximately 1:30 AM, in the vicinity of Sixth Avenue and West 4th Street in Manhattan, § 87(2)(b) was trying to catch a taxi. He had been hanging out with his friend, § 87(2)(b) at a restaurant. § 87(2)(b) was intoxicated; he had drunk approximately five mixed drinks in four hours. § 87(2)(b) was also agitated because two yellow cabs had already refused to drive him to Brooklyn. He did not see any police cars in the area.

A black Lincoln driving south on Sixth Avenue stopped for § 87(2)(b). § 87(2)(b) described the driver as a black male in his late thirties. § 87(2)(b) got in the car and they drove approximately three yards before they were stopped by a police car with its lights on. Officer Jonathan Hom approached the passenger side of the vehicle and Officer Omar Smith approached the driver's side. § 87(2)(b) identified Officer Hom by looking at the name (Hom) on Officer Hom's uniform. Officer Smith was identified as Officer Hom's partner in the 6th Precinct Roll call.

§ 87(2)(b) was sitting in the middle of the back seat. Officer Hom asked the cab driver for his license and registration through the passenger window. § 87(2)(b) interrupted their conversation and said, “Why are you stopping this man? I need to go home.” Officer Hom told § 87(2)(b) to be quiet and stay out of the situation. § 87(2)(b) continued to argue with Officer Hom in what § 87(2)(b) called a “power play.” Officer Hom continued to tell § 87(2)(b) to stay out of the situation and § 87(2)(b) talked about his father who was a diplomat. Then § 87(2)(b) called Officer Hom a “Chink.” Officer Hom's demeanor, which had previously been calm, became agitated, and he responded, “Fucking asshole, get out of the car.”¹ While § 87(2)(b) was talking to Officer Hom, he did not know what was happening with Officer Smith and the cab driver.

During the interaction, § 87(2)(b) was watching from a couple of yards away. She was silent until the officers handcuffed § 87(2)(b) which is when she asked them what they were doing. One of the officers told her to go across the street and she obliged.

Officer Hom was standing a foot away from the car in between the front and back door when § 87(2)(b) opened the door to get out. § 87(2)(b) did not remember hitting Officer Hom with the door; however, at

¹ In § 87(2)(b) initial statement on December 10, 2009, § 87(2)(b) alleged that Officer Hom told him to “shut the fuck up.”

the precinct, Officer Hom told § 87(2)(b) that he had hit him with the door. Officer Hom did not react physically or verbally when his leg was hit with the door.

The officers put § 87(2)(b) into handcuffs and drove him to the 6th Precinct. § 87(2)(b) was arrested for § 87(2)(b). § 87(2)(b) did not know if the livery cab driver received a ticket; after § 87(2)(b) got out of the cab, the driver drove away.

Three or four people were in the area during the incident; § 87(2)(b) did not recall who they were or if they were able to see what was happening. They could not hear what was happening.

At the precinct, Officer Hom had a kind demeanor. § 87(2)(b) apologized to him for calling him a “Chink” and Officer Hom brought § 87(2)(b) some cigarettes and water.

Results of Investigation

Witness Interviews

§ 87(2)(b) could not remember § 87(2)(b)'s number at the time of the interview. He said that he would contact the CCRB with her information. He did not contact the CCRB. The CCRB contacted him twice to get § 87(2)(b)'s number and he did not respond. Searches were conducted on Lexis Nexis and 411 to obtain § 87(2)(b)'s number; however, there were no results. Therefore, § 87(2)(b) was not interviewed.

§ 87(2)(b) was the livery cab driver. His name was obtained from Officer Omar Smith's memo book. § 87(2)(b)'s address and phone number was obtained from a 411 search conducted by the CCRB. From February 4 to February 17, 2009, the CCRB called § 87(2)(b) five times and sent him two letters. On February 4 and February 12, a male answered the phone and told the CCRB that § 87(2)(b) was not home. He did not allow the CCRB to leave a message. The CCRB was unable to leave a message for the other three calls because § 87(2)(b) did not have an answering machine. Therefore, § 87(2)(b) was not interviewed at the CCRB.

Identification of Officers Interviewed

Officer Jonathan Hom identified himself by name to § 87(2)(b). Officer Omar Smith was identified in the 6th Precinct roll call as Officer Hom's partner on December 19, 2008. In addition, the officers' CCRB statements confirmed their involvement in the incident.

Officer Interviews

On January 22, 2009, Officer Hom was interviewed at the CCRB. Officer Hom is an Asian male, 5'7" tall, 180 lbs, age § 87(2)(b) with black hair and brown eyes.

On December 7, 2008, Officer Hom worked from 11:15 PM to 7:50 AM, was assigned to sector EF, was working with Officer Omar Smith, dressed in uniform, and was assigned to marked RMP 4592 as the recorder. Officer Hom's memo book states the following: At 2:20 AM, arrested § 87(2)(b) for disorderly conduct at West 4th Street and 6th Avenue. Officer Hom's Omniform Complaint report states that Officer Hom and Officer Smith made a car stop for a black limousine which had picked up § 87(2)(b) illegally. § 87(2)(b) told the officers, “fuck you,” and tried to slam the rear right door on Officer Hom's leg.

On December 7, 2008, at approximately 1:30 AM, Officer Hom saw § 87(2)(b) flag down a black limo cab on West 4th Street and Sixth Avenue in Manhattan. Officer Smith approached the driver's side and Officer Hom approached the passenger side. Officer Hom opened the back door and asked § 87(2)(b) if he had prior arrangements with the cab driver. § 87(2)(b) said that he did not and Officer Hom asked him to wait a couple minutes while he spoke to the driver. Officer Hom asked the driver for his registration

and insurance and explained why the officers were stopping him. Officer Hom said that livery cabs are supposed to have prior arrangements and therefore the cab driver was being pulled over for what is called “accept on hail.”

§ 87(2)(b) was intoxicated and his face was flushed and red. Officer Hom could also smell alcohol on his breath.

§ 87(2)(b)'s female friend, § 87(2)(b) was standing outside the car. She screamed out to the officers that the stop was racist. Then § 87(2)(b) got into a separate car and drove away. § 87(2)(b) got increasingly angry that the officers were stopping the driver. He pushed the door open and it hit Officer Hom in the left hip and left arm. Officer Hom closed the door and told § 87(2)(b) to keep it shut. § 87(2)(b) pushed it open again and got out of the car. He put his hand in Officer Hom's face and said, “Fuck you, you mother fucking chink.” Officer Smith saw what was happening, came to the passenger side of the car and told § 87(2)(b) to calm down. § 87(2)(b) responded, “Fuck you, too.” The officer arrested § 87(2)(b) because he would not calm down and continued to obstruct their interaction with the driver by making comments and getting loud.

Officer Hom said that he did not use foul language. He said that he might have told § 87(2)(b) either “shut the hell up” or “shut the fuck up;” but he did not recall exactly. However, Officer Hom was certain that he never called § 87(2)(b) a “fucking asshole.”

At the precinct, § 87(2)(b) sobered up and his demeanor changed. Officer Hom talked with § 87(2)(b) about what happened. § 87(2)(b) apologized.

Officer Omar Smith

On February 22, 2009, Officer Omar Smith was interviewed at the CCRB. Officer Smith is a black male, 5'9" tall, 200 lbs, age § 87(2)(b) bald with brown eyes.

On December 7, 2008, Officer Smith worked from 11:15 PM to 7:50 AM, was assigned to sector EF, was working with Officer Jonathan Hom, dressed in uniform, and was assigned to marked RMP 4592 as the operator. Officer Smith's memo book states the following: At 2:05 AM, issued summons to § 87(2)(b) for § 87(2)(b) at West 4th Street and Sixth Avenue.

On December 7, 2008, at approximately 1:30 AM, Officer Hom and Officer Smith stopped a black Lincoln for picking up a passenger on West 4th Street and 6th Avenue in Manhattan. Officer Smith approached the driver's side and Officer Hom approached the passenger side. Officer Hom opened the back door and asked § 87(2)(b) if he had prior arrangements with the cab driver. § 87(2)(b) § 87(2)(b) said that he did not. Officer Smith explained that livery cabs are supposed to have prior arrangements, and therefore § 87(2)(b) was being pulled over for what is called “accept on hail.” Officer Smith asked § 87(2)(b) for his license and registration.

§ 87(2)(b)'s initial demeanor was irate and upset. He was saying things like, “I'm a black man trying to catch a cab in New York City.” Officer Smith heard Officer Hom tell § 87(2)(b) that he would be able take the livery cab home; he just had to wait for the officers to issue the summons. § 87(2)(b) called Officer Hom a “Chink” and told him to “go back to China.” He also used the word “fuck” many times. § 87(2)(b) was intoxicated. Officer Smith knew § 87(2)(b) was intoxicated because he could smell it on his breath. In addition, § 87(2)(b) told Officer Smith that he had been drinking. Officer Smith observed § 87(2)(b) hit Officer Hom with the car door two times. From Officer Smith's angle he saw Officer Hom fall back a step, so he assumed Officer Hom was hit in his torso.

§ 87(2)(b) had a female companion, § 87(2)(b) standing outside the car. § 87(2)(b) asked the officers why they were arresting § 87(2)(b). Officer Smith told her to stay out of the situation.

Officer Smith did not hear Officer Hom use foul language. Officer Hom did not say “fucking asshole, get out of the car;” “shut the fuck up;” or “shut the hell up.” Officer Smith did not use foul language. The interaction lasted approximately 15 minutes.

§ 87(2)(b) was arrested for § 87(2)(b) § 87(2)(b) was given a summons for “§ 87(2)(b)

Police Documents

6th Precinct Tour 1 Roll Call

The 6th Precinct tour 1 roll call lists Officer Hom and Officer Smith assigned to sector EF on December 10, 2008.

NYPD Sprint

The NYPD Sprint shows that officers from the 6th Precinct made an arrest at 2:20 AM on December 10, 2008.

Criminal Conviction History

§ 87(2)(b) [§§ 86(1)(3)&(4)] [§ 87(2)(c)]
§ 87(2)(b)

CCRB History

Officer Jonathan Hom

Officer Hom, a member of the NYPD for two years, has no substantiated allegations in his history.

§ 87(2)(b)

§ 87(2)(b) has no current or past complaints at the CCRB.

Conclusions and Recommendations

Subject Officer Identification

Officer Jonathan Hom identified himself by name to § 87(2)(b) He also fit the physical description § 87(2)(b) s gave of the officer that allegedly spoke obscenely to him: an Asian male. In addition, Officer Hom’s CCRB statement confirmed his involvement in the incident.

Undisputed facts

It is not in dispute that § 87(2)(b) was arrested for § 87(2)(b) on December 10, 2008.

Disputed facts

§ 87(2)(g) § 87(2)(b) alleged that Officer Hom used foul language when speaking to him. Officer Hom, however, testified that he did not use foul language.

Assessment of the evidence

§ 87(2)(b) alleged that Officer Jonathan Hom used foul language, but Officer Hom testified that he did not use foul language. Witness officer, Omar Smith, testified that Officer Hom did not use foul language. § 87(2)(g)

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Allegation A: Police Officer Jonathan Hom spoke obscenely to § 87(2)(b)

§ 87(2)(g)

Investigator: Maryann Wong

Date:

Supervisor:

Date:

Reviewed by:

Date:

Reviewed by:

Date: